

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CLAUDE GRANT, ORALENE DAY,)	
PRINCESS MARTINDALE,)	NO. 3 04 0630
FALETHA REID, DARRYL MCKIBBENS,)	
DARREL GANT, ANTONIO MCKISSACK,)	JUDGE HAYNES
PAMELA TUCKER and)	
SANDRA DERRICK,)	MAGISTRATE JUDGE BROWN
individually and on behalf)	
of all others similarly situated,)	CLASS ACTION COMPLAINT
)	
Plaintiffs,)	JURY DEMAND
)	
v.)	
)	
METROPOLITAN GOVERNMENT OF)	
NASHVILLE AND DAVIDSON COUNTY,)	
TENNESSEE,)	
)	
Defendant.)	

**DEFENDANT'S MOTION *IN LIMINE* NO. 1 TO EXCLUDE THE EXPERT
TESTIMONY OF DR. MICHAEL E. MOOMAW**

Comes now the Defendant and hereby moves that the Plaintiffs' proposed expert testimony, that of Dr. Michael E. Moomaw, be excluded from trial, and, as grounds, would state:

1. Plaintiffs' proposed expert testimony would only explore the "racial composition" of Metro Water Services ("MWS") and not the "selection rates" of any at-issue jobs. The Sixth Circuit has consistently held such analyses to be wholly insufficient to prove disparities in Title VII cases.

2. The proposed testimony does not take into account any obvious non-discriminatory variables (e.g., education, experience, time-in-grade). Therefore, the proposed testimony is "not the product of reliable principles and methods."

3. In addition, Dr. Moomaw's "Supplemental Expert Report" is actually a rebuttal report, which is not permitted under the Court's Case Management Order, and should be excluded on those grounds as well.

For these reasons, and for the reasons stated in the accompanying memorandum of law in support, the proposed testimony of Dr. Moomaw is unreliable and irrelevant and should be excluded from trial.

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY
SUE CAIN #9380, DIRECTOR OF LAW

/s/ J. Brooks Fox
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been sent electronically to Martin Holmes, Financial Center, 424 Church Street, Suite 1401, Nashville, TN 37219-2392, via the CM/ECF electronic filing system on this the ____ day of February, 2008.

/s/ J. Brooks Fox
J. Brooks Fox